S.B. Civil Writ Petition No.4713/2007
Smt. Marudhar Bhati
vs
Rent Appellate Tribunal, Jodhpur & Ors.

Date of order : 7.9.2007.

HON'BLE MR. PRAKASH TATIA, J.

Mr.JK Bhaiya, for the petitioner.
Mr.RK Thanvi, for the respondents.

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At the request of learned counsel for the parties the writ petition itself is decided finally.

The respondents filed a suit for eviction and enhancement of the rent against the petitioner under the provisions of Rajasthan Rent Control Act, 2001 (for short the Act of 2001). The rent tribunal allowed the petition of the plaintiffs-respondents vide order dated 26.10.2006. The petitioner-defendant preferred an appeal before the Rent Appellate Tribunal wherein the Rent Appellate Tribunal by interim order dated 24.7.2007 stayed the execution of the order of the rent tribunal on condition of payment of entire decretal amount.

Being aggrieved against the said order of the appellate authority dated 24.7.2007 (Annex.4), the petitioner preferred this writ petition.

This Court vide interim order dated 8.8.2007 directed the petitioner to deposit Rs. 1 lac on or before 10.8.207 and Rs.50,000/0 on or before 27.8.2007 and on that condition the

execution of the order passed by the appellate tribunal was kept in abeyance.

Learned counsel for the petitioner submits that the petitioner is not in position to pay the entire amount in on installment. Learned counsel for the petitioner also submitted that there is a dispute of title also.

Learned counsel for the respondents submitted that last paid rent was Rs. 6,000/- which has been enhanced to only Rs.7060/- (from the date of filing of the petition in the rent tribunal). The appellate court rightly put the condition of payment of the decretal amount, which is the usual order passed by the appellate court in a matter where relief against the execution of the decree in relation to the possession and mesne profit is there. It is also submitted that after the order of the rent tribunal much time has now passed, therefore, there is no reason to grant any further indulgence in favour of the petitioner so as to deprive the respondent-landlord from the mesne profit.

I considered the submissions of learned counsel for the parties and perused the facts of the case also.

Without commenting much on the merit of the case, in the interest of justice, it is ordered that the petitioner may now deposit the remaining amount in the bank account of the respondent-landlord, particulars of which have already been supplied by learned counsel for the petitioner who appeared before the rent appellant

tribunal. The entire amount be deposited by the 5th Nov., 2007 and the plaintiff-non-petitioner shall be entitled to withdraw the amount from the court.

It is further ordered that the petitioner shall continue to pay the amount month by month from the month of Sept., 2007 if he has not deposited the monthly rent in pursuance of the order dated 24th July, 2007. The amount, which has already been deposited, may also be paid to the non-petitioner-plaintiff.

Hence, the writ petition of the petitioner is disposed of with the aforesaid directions.

(PRAKASH TATIA), J.

c.p.goyal/-